

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Bill No. 1818, Page 1, Section 452.335, Line 1, by deleting all of said line and
2 inserting in lieu thereof the following:

3
4 "452.335. 1. For the purposes of this section and section 452.370, the following terms shall
5 mean:

6 (1) "Alimony" or "maintenance", the periodic payment of support from a former spouse
7 who has the ability to pay to a former spouse in need of support for a reasonable length of time
8 under a court order. An order to pay alimony or maintenance entered by a court prior to the
9 effective date of this section shall be deemed to be an existing alimony or maintenance judgment;

10 (2) "Cohabitation", the act of unmarried persons maintaining a common household, as
11 represented by economic interdependence, the benefit in life either party derives from the
12 relationship, the conduct and collaborative roles in furtherance of their life together, community
13 reputation of the persons as a couple, and any other relevant and material factors;

14 (3) "Full retirement age", the normal retirement age a payor is eligible to receive full
15 retirement benefits under the Old-Age, Survivors, and Disability Insurance Program, but shall not
16 mean "early retirement age", as defined under 42 U.S.C. Section 416, if early retirement is available
17 to the payor, or "maximum benefit age" if additional benefits are available as a result of delayed
18 retirement;

19 (4) "Length of marriage", the number of months from the date of legal marriage to the date
20 of service of a motion or petition for divorce or separate support duly filed in a court of the state or
21 another court with jurisdiction to terminate the marriage; provided however, that the court may
22 increase the length of the marriage if there is evidence that the parties' economic marital partnership
23 began during their cohabitation period prior to the marriage;

24 (5) "Payor" or "obligor", the spouse required by a court order to pay alimony or
25 maintenance;

26 (6) "Recipient" or "obligee", the spouse receiving alimony or maintenance under a court
27 order.

28 2. In a proceeding for nonretroactive invalidity, dissolution of marriage or legal"; and
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30 Further amend said bill, page, and section, Line 10, by deleting the number "2." and inserting in lieu
31 thereof the following "[2.] 3."; and
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33 Further amend said bill, page, and section, Line 13, by inserting immediately after the first instance
34 of the words "or her," the following:
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36 "income that can be earned from said marital property,"; and

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

Further amend said bill and section, Page 2, Line 29, by deleting the number "3." and inserting in lieu thereof the following "[3.] 4."; and

Further amend said bill, page, and section, Line 34, by deleting the number "4." and inserting in lieu thereof the number "5."; and

Further amend said bill, page, and section, Line 35, by deleting the number "5" and inserting in lieu thereof the number "6"; and

Further amend said bill, page, and section, Line 36, by inserting immediately after the word "exceed" the words "a durational limit of"; and

Further amend said bill, page, and section, Line 40, by inserting immediately after the word "date." the following:

"In determining whether to limit the term of maintenance to a period less than the durational limit provided in this subdivision, the court shall consider whether, in light of all factors listed in subsection 2 of this section, the maintenance recipient should be capable of becoming self-supporting. The length of the marriage and ages of the parties at the time of the entry of the judgment shall be deemed factors relevant to the court's entry of a shorter maintenance term duration. During the durational limit period of any modifiable maintenance order, either party may file a motion requesting that the order be increased, decreased, or terminated under section 452.370."; and

Further amend said bill, page, and section, Line 42, by deleting the words "may be automatically" and inserting in lieu thereof the words "shall be"; and

Further amend said bill, page, and section, Lines 46 and 47, by deleting the words "an automatic" and inserting in lieu thereof the word "a"; and

Further amend said bill, page, and section, Line 50, by deleting the words ", without a hearing."; and

Further amend said bill and section, Page 3, Line 54, by inserting immediately after the word "maintenance." the following:

"The maintenance recipient may request a hearing to establish grounds to extend maintenance based on the provisions of subsection 6, to present clear and convincing evidence that the obligor is in arrears, or that the durational limit has not been satisfied."; and

Further amend said bill, page, and section, Line 62, by deleting all of said line and inserting in lieu thereof the following:

"6. Notwithstanding the provisions of subsection 5 of this section, maintenance"; and

Further amend said bill, page, and section, Line 79, by inserting after all of said line the following:

1 "452.370. 1. Except as otherwise provided in subsection 6 of section 452.325, the
 2 provisions of any judgment respecting maintenance or support may be modified only upon a
 3 showing of changed circumstances so substantial and continuing as to make the terms unreasonable.
 4 In a proceeding for modification of any child support or maintenance judgment, the court, in
 5 determining whether or not a substantial change in circumstances has occurred, shall consider all
 6 financial resources of both parties, including [the extent to which the reasonable expenses of either
 7 party are, or should be, shared by a spouse or other person with whom he or she cohabits, and] the
 8 earning capacity of a party who is not employed.

9 2. A payor reaching full retirement age shall establish a substantial and continuing change
 10 of circumstances that makes the terms of a maintenance award unreasonable. Termination of any
 11 existing and subsequent maintenance awards, based upon the payor reaching full retirement age,
 12 shall occur upon the filing by the payor of a notice to terminate maintenance, reciting that the payor
 13 has reached full retirement age. The recipient of maintenance may seek to extend the maintenance
 14 award by showing that the payor has not reached full retirement age. The payor's ability to work
 15 beyond full retirement age shall not constitute grounds to extend maintenance.

16 3. A party receiving maintenance shall be under a continuing affirmative duty and
 17 obligation to become self-supporting. Failure to become self-supporting in a reasonable period of
 18 time shall be considered by the court as a substantial and continuing change of circumstances by
 19 which termination of a maintenance order may occur.

20 4. If the application of the child support guidelines and criteria set forth in section 452.340
 21 and applicable supreme court rules to the financial circumstances of the parties would result in a
 22 change of child support from the existing amount by twenty percent or more, a prima facie showing
 23 has been made of a change of circumstances so substantial and continuing as to make the present
 24 terms unreasonable, if the existing amount was based upon the presumed amount pursuant to the
 25 child support guidelines.

26 [2.] 5. When the party seeking modification has met the burden of proof set forth in
 27 subsection 1 of this section, the child support shall be determined in conformity with criteria set
 28 forth in section 452.340 and applicable supreme court rules.

29 [3.] 6. Unless otherwise agreed in writing or expressly provided in the judgment, the
 30 obligation to pay future statutory maintenance is terminated upon the death of either party [or] , the
 31 remarriage of the party receiving maintenance, or the cohabitation of the party receiving
 32 maintenance with a domestic partner for one hundred twenty days or more, cumulatively or
 33 consecutively.

34 [4.] 7. In the event of the payor's remarriage or cohabitation with a domestic partner,
 35 income and assets of the payor's spouse or domestic partner shall not be considered in any motion to
 36 modify or terminate maintenance.

37 8. Unless otherwise agreed in writing or expressly provided in the judgment, provisions for
 38 the support of a child are terminated by emancipation of the child. The parent entitled to receive
 39 child support shall have the duty to notify the parent obligated to pay support of the child's
 40 emancipation and failing to do so, the parent entitled to receive child support shall be liable to the
 41 parent obligated to pay support for child support paid following emancipation of a minor child, plus
 42 interest.

43 [5.] 9. If a parent has made an assignment of support rights to the family support division on
 44 behalf of the state as a condition of eligibility for benefits pursuant to the Temporary Assistance for
 45 Needy Families program and either party initiates a motion to modify the support obligation by
 46 reducing it, the state of Missouri shall be named as a party to the proceeding. The state shall be
 47 served with a copy of the motion by sending it by certified mail to the director of the family support
 48 division.

1 [6.] 10. The court shall have continuing personal jurisdiction over both the obligee and the
2 obligor of a court order for child support or maintenance for the purpose of modifying such order.
3 Both obligee and obligor shall notify, in writing, the clerk of the court in which the support or
4 maintenance order was entered of any change of mailing address. If personal service of the motion
5 cannot be had in this state, the motion to modify and notice of hearing shall be served outside the
6 state as provided by supreme court rule 54.14. The order may be modified only as to support or
7 maintenance installments which accrued subsequent to the date of personal service. For the purpose
8 of 42 U.S.C. Section 666(a)(9)(C), the circuit clerk shall be considered the appropriate agent to
9 receive notice of the motion to modify for the obligee or the obligor, but only in those instances in
10 which personal service could not be had in this state.

11 [7.] 11. If a responsive pleading raising the issues of custody or visitation is filed in
12 response to a motion to modify child support filed at the request of the family support division by a
13 prosecuting attorney or circuit attorney or an attorney under contract with the division, such
14 responsive pleading shall be severed upon request.

15 [8.] 12. Notwithstanding any provision of this section which requires a showing of
16 substantial and continuing change in circumstances, in a IV-D case filed pursuant to this section by
17 the family support division as provided in section 454.400, the court shall modify a support order in
18 accordance with the guidelines and criteria set forth in supreme court rule 88.01 and any regulations
19 thereunder if the amount in the current order differs from the amount which would be ordered in
20 accordance with such guidelines or regulations."; and

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22 Further amend said bill by amending the title, enacting clause, and intersectional references
23 accordingly.